

AMENDED IN SENATE MARCH 29, 2016

SENATE BILL

No. 1379

Introduced by Senator Mendoza

February 19, 2016

An act to amend Section ~~453~~ 5710 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1379, as amended, Mendoza. ~~Labor statistics and research.~~
Workers' Compensation: depositions: interpreters.

Existing law requires the State Personnel Board to, and authorizes the Director of the Division of Workers' Compensation (administrative director) or an independent organization designated by the administrative director to, establish, maintain, administer, and publish annually an updated list of certified administrative hearing interpreters who, based on testing by an independent organization designated by the administrative director, have been determined to meet certain minimum standards, for purposes of certain workers' compensation proceedings and medical examinations. Existing law authorizes depositions to be taken in conjunction with any investigation or hearing before the Workers' Compensation Appeals Board.

This bill would require that specified information regarding the certification of an interpreter, for a deposition under these provisions, be stated on the record and verified by the board or judge ordering the deposition, or by the party giving the deposition testimony, or his or her representative.

~~Under existing law, the Department of Industrial Relations collects, compiles, and presents facts and statistics relating to the condition of labor in the state. Existing law provides that, except as specified, no~~

~~use shall be made in the department's reports of the names of persons supplying information, and makes any agent or employee of the department who violates this provision guilty of a misdemeanor.~~

~~This bill would also prohibit the use of the identities of persons supplying information to the department.~~

~~Because the bill would expand the definition of a crime, it would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5710 of the Labor Code is amended to
2 read:

3 5710. (a) The appeals board, a workers' compensation judge,
4 or any party to the action or proceeding, may, in any investigation
5 or hearing before the appeals board, cause the deposition of
6 witnesses residing within or without the state to be taken in the
7 manner prescribed by law for like depositions in civil actions in
8 the superior courts of this state under Title 4 (commencing with
9 Section 2016.010) of Part 4 of the Code of Civil Procedure. To
10 that end the attendance of witnesses and the production of records
11 may be required. Depositions may be taken outside the state before
12 any officer authorized to administer oaths. The appeals board or
13 a workers' compensation judge in any proceeding before the
14 appeals board may cause evidence to be taken in other jurisdictions
15 before the agency authorized to hear workers' compensation
16 matters in those other jurisdictions.

17 (b) If the employer or insurance carrier requests a deposition to
18 be taken of an injured employee, or any person claiming benefits
19 as a dependent of an injured employee, the deponent is entitled to
20 receive in addition to all other benefits:

21 (1) All reasonable expenses of transportation, meals, and lodging
22 incident to the deposition.

(2) Reimbursement for any loss of wages incurred during attendance at the deposition.

(3) One copy of the transcript of the deposition, without cost.

(4) A reasonable allowance for attorney's fees for the deponent, if represented by an attorney licensed by the State Bar of this state. The fee shall be discretionary with, and, if allowed, shall be set by, the appeals board, but shall be paid by the employer or his or her insurer.

(5) If interpretation services are required because the injured employee or deponent does not proficiently speak or understand the English language, upon a request from either, the employer shall pay for the services of a language interpreter certified or deemed certified pursuant to Article 8 (commencing with Section 11435.05) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of, or Section 68566 of, the Government Code. The fee to be paid by the employer shall be in accordance with the fee schedule adopted by the administrative director and shall include any other deposition-related events as permitted by the administrative director.

(c) If interpretation services are required pursuant to subdivision (a) or (b), the following shall be stated on the record:

(1) The name of the certified or registered court interpreter, as listed on his or her court interpreter certification or registration.

(2) His or her current certification or registration number.

(3) A statement that the certified or registered court interpreter's identification has been verified, by the board or judge ordering the deposition, or by the party giving testimony, or his or her representative, using a certified or registered interpreter identification badge issued by the Judicial Council or other documentation that verifies the interpreter's certification or registration accompanied by photo identification.

(4) The language to be interpreted.

(5) A statement that the interpreter's oath was administered to the certified or registered court interpreter or that he or she has an oath on file with the court.

~~SECTION 1. Section 153 of the Labor Code is amended to read:~~

~~153. Except as provided in Section 151 no use shall be made in the statistical or other reports prepared pursuant to this chapter of the names or identities of persons supplying the information~~

1 required under this code. Any agent or employee of the department
2 who violates this section is guilty of a misdemeanor.
3 SEC. 2. ~~No reimbursement is required by this act pursuant to~~
4 ~~Section 6 of Article XIII B of the California Constitution because~~
5 ~~the only costs that may be incurred by a local agency or school~~
6 ~~district will be incurred because this act creates a new crime or~~
7 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
8 ~~for a crime or infraction, within the meaning of Section 17556 of~~
9 ~~the Government Code, or changes the definition of a crime within~~
10 ~~the meaning of Section 6 of Article XIII B of the California~~
11 ~~Constitution.~~